

## **REMARKS**

### ***Status of Prosecution***

A Non-Final Office Action was mailed 15 January 2009 in which all claims were rejected at least once. In response, Examiner and the Undersigned conducted an in-person interview on 13 March 2009 to discuss possible responses to the January 15<sup>th</sup> Office Action. Subsequent to the March 13<sup>th</sup> interview, Applicants filed a Notice of Appeal on 15 July 2009. The filing of the RCE herewith will withdraw the appeal. Accordingly, comments and suggestions made during the March 13<sup>th</sup> interview are relevant and are the basis of this submission.

### ***Interview of 13 March 2009***

Applicants and the undersigned thank the Examiner for conducting the interview of 13 March 2009. In accordance with MPEP §713.04, a summary of the substance of the interview is incorporated into the comments below.

### ***The Claims are Not Indefinite***

The Office Action of 15 January 2009 rejected claims 22, 24, 28-30 and 32-34 because the claims were allegedly indefinite. Applicants have canceled claims 28-30 and 32-34, which renders moot the indefiniteness rejection with respect to these claims. Applicants have amended claim 22, per the Examiner's suggestion during the March 13<sup>th</sup> interview. Applicants assert that the amendments to claim 22 renders moot the indefiniteness rejection with respect to claims 22 and 24. Applicants respectfully request reconsideration and withdrawal of the indefiniteness rejection.

### ***The Specification Fully Supports the Claimed Invention***

#### ***Written Description***

The Office Action of 15 January 2009 rejected claims 22, 24, 28-30 and 32-34 because the specification allegedly failed to describe the invention "in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." *Office Action of 15 January 2009*, page 3. Applicants have canceled claims 28-30 and 32-34, which renders moot the written description rejection with respect to these claims. Applicants have amended claim 22, per the Examiner's suggestion during the March 13<sup>th</sup> interview.

Applicants assert that the amendments to claim 22 renders moot the written description rejection with respect to claims 22 and 24. Applicants respectfully request reconsideration and withdrawal of the written description rejection.

***Enablement***

The Office Action of 15 January 2009 rejected claims 22, 24, 28-30 and 32-34 because the specification allegedly failed to “enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.” *Office Action of 15 January 2009*, page 4. Applicants have canceled claims 28-30 and 32-34, which renders moot the enablement rejection with respect to these claims. Applicants have amended claim 22, per the Examiner’s suggestion during the March 13<sup>th</sup> interview. Applicants assert that the amendments to claim 22 renders moot the enablement rejection with respect to claims 22 and 24. Applicants respectfully request reconsideration and withdrawal of the enablement rejection.

***The Obviousness Rejections Should Rejections Should be Withdrawn***

In six separate rejections, the Office Action of 15 January 2009 collectively rejected claims 22, 28-30 and 32-34 as obvious under a collection of various cited art.

During the interview of 13 March 2009, the Examiner suggested that a claim reciting a biological deposit would overcome all obviousness rejections, since the collection of cited references could not teach recite this deposit. Applicants thank the Examiner for this helpful suggestion. Applicants have deposited the novel vector with the ATCC in accordance with the Budapest Treaty. The certificate of deposit is appended hereto. The claims have been amended such that they recite a vector contained in ATCC Deposit PTA-10532. Applicants assert that the amended claims are not obvious in view of the cited art. Applicants respectfully request reconsideration and withdrawal of all obviousness rejections.

**CONCLUSION**

Applicants have amended the claims to better capture the envisioned commercial embodiments. In addition, Applicants have presented responses to the Office Action regarding the patentability of the presently claims.

Should the Examiner believe that further discussion of any remaining issues would advance the prosecution, he or she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date 14 February 2010

By /Todd B. Buck/

**MORGAN LEWIS & BOCKIUS LLP**

**Customer Number: 09629**

Telephone: (202) 739-3000

Facsimile: (202) 739-3001

Todd B. Buck

Registration No. 48,574

REPLY TO FINAL OFFICE ACTION  
U.S. Serial No.: 10/724,292  
Filing Date: 1 December 2003

Atty. Dkt. No. 061537-0036

**Appendix A**